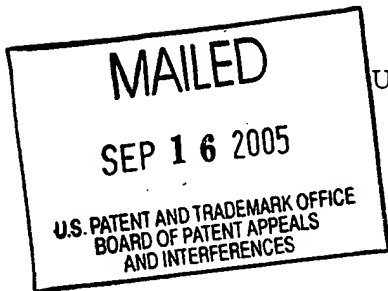


The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.



UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte THOMAS W. CARDINAL, JOHN C. THIRY  
and DANIEL K. WESTLUND

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Appeal No. 2005-1782  
Application No. 09/804,769

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ON BRIEF

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Before McQUADE, NASE and BAHR, Administrative Patent Judges.

Per curiam

#### DECISION ON APPEAL

Thomas W. Cardinal et al. appeal from the final rejection (mailed September 12, 2003) of claims 1 through 17, all of the claims pending in the application.

#### THE INVENTION

The invention relates to a method and apparatus "for automatically disengaging the cruise control system on a motorized vehicle when the vehicle experiences a lateral acceleration in excess of a predetermined threshold value"

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(specification, page 3). Representative claims 1 and 17 read as follows:

1. A system for automatically disengaging a cruise control system on a motorized vehicle when the vehicle experiences a lateral acceleration in excess of a predetermined threshold value, comprising:

(a) a sensor mounted upon the vehicle for sensing lateral acceleration of the vehicle; and

(b) a controller in direct communication with the sensor and the cruise control system for disengaging the cruise control system when the sensor detects a lateral acceleration in excess of a predetermined threshold value.

17. A method for automatically disengaging a cruise control system on a motorized vehicle when the vehicle experiences a lateral acceleration in excess of a predetermined threshold value, comprising:

(a) sensing lateral acceleration of the vehicle; and

(b) automatically and directly disengaging the cruise control system when the sensor detects a lateral acceleration in excess of a predetermined threshold value.

#### THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Phung et al. (Phung)	6,370,469	Apr. 09, 2002
Blaney	4,522,280	Jun. 11, 1985

#### THE REJECTION

Claims 1 through 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Phung in view of Blaney.

Attention is directed to the brief (filed May 3, 2004) and answer (mailed September 9, 2004) for the respective positions of

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the appellants and examiner regarding the merits of this rejection.

#### DISCUSSION

Phung, the examiner's primary reference, discloses a method of controlling a cruise control system of a vehicle when traversing a curved road section. While the cruise control is engaged, the output from a lateral acceleration sensor is monitored and if it exceeds certain thresholds the system compensates the cruise control torque command to decrease the speed of the vehicle while maintaining engagement of the cruise control system (see column 1, lines 15 through 44; and column 2, lines 38 through 66).

The examiner concedes that Phung does not respond to the limitations in independent claim 1, or the corresponding limitations in independent claims 11 and 17, relating to the disengagement of the cruise control system if lateral acceleration is in excess of a predetermined threshold value. To overcome this deficiency, the examiner relies on Blaney.

Blaney discloses a system for automatically disengaging an automotive cruise control system on the occurrence of failures or malfunctions in the vehicle brake system or fall-offs of speed below a preselected level when the cruise control system is in the "resume speed" mode of operation. For purposes of the

appealed rejection, the examiner focuses on the latter circumstance which Blaney describes as follows:

[a] third level of safety control is provided by monitoring vehicle speed changes in the resume mode, that is, when the vehicle is in the process of regaining speed toward a preselected set point and also thereafter. This aspect of the invention is accomplished by the addition of a peak speed register to store the maximum value of the vehicle's actual speed. A comparator is then used to compare the vehicle's present operating speed with the stored peak speed. If the operating speed is more than a predetermined threshold below the peak speed, then an automatic disconnect signal is furnished to the cruise control system [column 2, lines 57 through 68].

In proposing to combine Phung and Blaney to reject the appealed claims, the examiner concludes that it would have been obvious "to have provided the control system of Phung et al. with the disengagement option of Blaney in order to prevent unwanted acceleration of the vehicle in an emergency situation" (answer, pages 3 and 4). Even if these references were so combined, however, providing Phung with the disengagement option of Blaney would not result in a system or method as recited in independent claims 1, 11 and 17. Instead, such a combination would simply result in a system and method consistent with those disclosed by Phung with the added feature of cruise control disengagement upon failures or malfunctions in the vehicle brake system and undue fall-offs in speed during the "resume speed" mode. The examiner has not explained, and it is not apparent, how or why the

combined teachings of Phung and Blaney would have suggested a system and method meeting the limitations in claims 1, 11 and 17 relating to the disengagement of the cruise control system if lateral acceleration is in excess of a predetermined threshold value.

## SUMMARY

REVERSED

BOARD OF PATENT  
APPEALS  
AND  
INTERFERENCES

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